

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

MARK R. COLLISON, M.D., RESPONDENT

FILE No. 02-10-261

TERMINATION ORDER

Date: November 16, 2012.

1. Respondent was issued Iowa medical license no. 22966 on July 1, 1982.
2. Respondent's Iowa medical license is active and will next expire on November 1, 2013.
3. The Board has jurisdiction pursuant to Iowa Code Chapters 147, 148 and 272C.
4. Respondent is an Iowa-licensed physician who practices internal medicine in Clive, Iowa.
5. On September 23, 2011, the Board charged Respondent with knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of medicine in violation of the laws and rules governing the practice of medicine in Iowa. The Board alleged that Respondent made false or misleading statements to the Board when he indicated that he was not involved in a patient's care when the medical records indicate that he was.

6. On January 26, 2012, a hearing was held before the Board. On April 12, 2012, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order. The Board concluded that Respondent knowingly made misleading, deceptive, untrue or fraudulent representations when he denied he was involved in the care of a patient when, in fact, the records indicate that he provided "hands on" care to the patient and he was responsible for the patient's care as the supervising physician of a physician assistant who provided care to the patient during the period in question. The Board issued Dr. Collison a Citation and Warning and ordered him to pay a \$3,000 fine and complete a Board-approved professional ethics program.

7. Respondent completed the terms of his order and on November 16, 2012, the Board voted to terminate the terms the order.

THEREFORE IT IS HEREBY ORDERED: that the terms and conditions of Respondent's probation are terminated and Respondent's Iowa medical license is returned to its full privileges, free and clear of all restrictions.

This Order is issued by the Board on November 16, 2012.

A handwritten signature in black ink that reads "Colleen K. Stockdale MD MS". The signature is written in a cursive, flowing style.

Colleen K. Stockdale, M.D., M.S., Chairwoman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE)	FILE NO. 02-10-261
STATEMENT OF CHARGES)	DIA NO. 11IMB014
AGAINST:)	
 MARK R. COLLISON, M.D.)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent)	DECISION AND ORDER

Date: April 12, 2012.

On September 23, 2011, the Iowa Board of Medicine (Board) filed a Statement of Charges alleging that Mark R. Collison, M.D. (Respondent) knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a profession, in violation of Iowa Code sections 147.55(3), 148.6(2)(a), 272C.10(3), and 653 IAC 23.1(14). The hearing was held on January 26, 2012, before the following Board members: Colleen Stockdale, M.D., Board Secretary; Analisa Haberman, M.D.; Greg Hoversten, D.O.; Joyce Vista-Wayne, M.D.; Allen Zagoren, D.O.; Amber Mian and Paul Thurlow, public members. Respondent was represented by attorney David L. Brown. Assistant Attorney General Julie Bussanmas represented the state. The hearing was closed to the public at Respondent's request, pursuant to Iowa Code section 272C.6(l) and 653 IAC 25.18(12). The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare a written decision for their review, in accordance with their deliberations.

THE RECORD

The record includes the Notice of Hearing and Statement of Charges; Respondent's Motion to Continue; Initial Prehearing Conference Scheduling Order; Second Hearing Order; testimony of Cathy McCullough, Suzanne Ware, and Respondent; State Exhibits 1-12 and Respondent Exhibits A-C (See Exhibit Lists for description)

FINDINGS OF FACT

1. Respondent was issued Iowa medical license number 22966 on July 1, 1982. Respondent's Iowa medical license is active. (State Exhibit 2; Testimony of Cathy McCullough)
2. On April 29, 2010, an insurance company filed notice with the Board, pursuant to Iowa Code section 272C.4(10), that there was a pending malpractice lawsuit against Respondent. (State Exhibit 2)

On August 9, 2010, Board Investigator Cathy McCullough sent Respondent an Investigative Inquiry. The Investigative Inquiry notified Respondent that the Board had received notice of a professional liability claim filed against him with respect to his care and treatment of a patient (hereinafter, "the patient"). The Investigative Inquiry also stated, in relevant part:

The claim alleges failure to order diagnostic tests for a questionable bowel mass. Cancer was eventually diagnosed.

It is requested that **not more than twenty days from the date of this letter** you provide this office with a detailed, personally written narrative outlining and discussing your care of [the patient]. In the narrative you should provide specifics regarding the care provided and respond to the allegations of the claim. **Please include ALL pertinent medical records and other documents. Provide legal documents to include the initial complaint or petition filed and information regarding the disposition of this matter, if available.** Reference file #02-2010-0261 in your response.

Thank you in advance for your cooperation. If you have any questions please do not hesitate to contact me.

(State Exhibit 3; Testimony of Cathy McCullough)

3. Respondent replied to the Investigative Inquiry in a letter dated August 29, 2010. Respondent's letter states, in relevant part:

Please see enclosed the records as requested on the above named patient. She was never seen by me regarding this incident. She was cared for by Suzanne where (sic) PA-C. I am her supervising physician.

....

I can't comment specifically on the allegations, as I was not involved in her care either directly or indirectly. I had not seen her for several years before this incident.

Respondent attached some of the patient's medical records to his letter. (State Exhibit 3, p. 12; State Exhibit 4; Testimony of Cathy McCullough)

4. On January 12, 2011, the Board asked Respondent to personally appear before the Board "to discuss the care and treatment provided to [the patient], your supervision of Suzanne Ware, PA, and your role as a supervising physician." The Board's letter further states, in relevant part:

In your response to the Board you stated that you could not comment specifically on the allegations, as you were not involved in [the patient's] care, either directly or indirectly. You also stated that you had not seen [the patient] for several years before this incident.

The Board has concerns that you stated you were not involved in Ms. Potter's care, when in fact, she was being treated by Suzanne Ware, PA and you are the supervising physician for Ms. Ware. The Board would like to discuss your role as a supervising physician.

...

(State Exhibit 5; Testimony of Cathy McCullough)

5. Respondent appeared before the Board on February 10, 2011. The Board questioned Respondent about his review of the patient's medical records during the time that Physician Assistant Suzanne Ware was providing care to her. Respondent admitted that he received, reviewed and initialed some of the patient's medical records. He acknowledged his initials on a February 22, 2008, consultation note from urology, which indicated that the patient would be scheduled for a CT scan of the abdomen and pelvis (State Exhibit 4, pp. 22-23). Respondent denied that he ever saw the results of the patient's CT scan (State Exhibit 4, pp. 24-25). When Respondent was asked if it was his initial on the March 5, 2008, follow-up note from urology, he replied "I think so"¹ but denied any recollection of having reviewed the note. This urology follow-up note included a summary of the CT findings of a soft tissue mass and recommended confirming the mass with a PET scan or a small bowel study. This note further stated

¹ At hearing, Suzanne Ware verified that it was Respondent's initial on the March 5, 2008 follow-up note from urology. (Testimony of Suzanne Ware).

"we are going to refer her back to Dr. Mark Collison for further workup or possible referral to GI." (State Exhibit 4, p. 26) (State Exhibit 7, pp. 3-4, 74-75)

6. Physician Assistant Suzanne Ware has worked for the Mercy Clinics with Respondent as her supervising physician for approximately ten years. They report a good working relationship, and they respect each other's professional abilities. When Ms. Ware was first hired, Respondent reviewed all of her charts. The frequency of his routine chart reviews decreased over time. However most patients alternate their visits between Respondent and Ms. Ware, so Respondent reviews Ms. Ware's charting when he sees the patient.

The patient whose care was at issue in the malpractice claim initially alternated her medical appointments between Suzanne Ware and Respondent. In 2004, however, the patient started making all of her appointments with Ms. Ware because she was more comfortable with a female health care provider. Respondent continued to be responsible for supervising Ms. Ware, but he did not personally see the patient from 2004 until January 2009.

In February 2008, Ms. Ware referred the patient to urology for a small amount of blood in her urine. A CT scan was ordered and revealed a questionable mass in the patient's small bowel. A PET scan was recommended, but the insurance company refused to approve it. A small bowel study was performed instead, and the patient was asked to follow up in three months. The patient did not follow up, and no reminder card was sent to her. In about August 2008, the patient was seen by Ms. Ware for a sinus infection but was also provided treatment for constipation. The next time that Ms. Ware saw the patient was in January 2009, when she came in with acute abdominal pain. Ms. Ware's examination revealed a large abdominal mass. The patient was admitted to the hospital that day. Ms. Ware does not see patients in the hospital, and she had no further contact with the patient. Respondent was the patient's attending physician while she was in the hospital. The patient later had surgery to remove the abdominal mass and also received treatment from an oncologist. (Testimony of Suzanne Ware; Respondent; State Exhibit 4)

Mercy Clinics did not have an electronic record keeping system when Suzanne Ware and Respondent were providing care to the patient. Respondent would manually initial medical records to indicate that he had reviewed them. At hearing, Suzanne Ware went through the patient's medical records that Respondent provided to the Board and identified Respondent's initial on fourteen (14) of those documents. These documents had dates that ranged from February 22, 2008 through July 6, 2010. Three of the documents initialed by Respondent (the urology consult, a phone note from

urology concerning the questionable small mass, and the follow up note from urology) were created in February and March 2008, more than nine months prior to the patient's hospitalization. In addition, the patient records include the January 22, 2009, physician's order admitting the patient to the hospital, Respondent's February 2, 2009, office note concerning his physical examination of the patient, and correspondence between Respondent and the patient's surgeon and oncologist. (Testimony of Respondent; State Exhibit 4, pp. 21, 22, 26, 27, 36-38, 40, 44, 46, 49, 51, 55, 57, 59, 61; Respondent Exhibit C)

7. The patient sued Respondent for medical malpractice for the medical care provided from March 5, 2008 through February 2, 2009. The patient also sued Mercy Clinics. Respondent was represented in the lawsuit by an attorney who was provided by his malpractice insurer. The lawsuit was ultimately settled, and Respondent was dismissed from the case. (Testimony of Respondent; State Exhibit 8)

The malpractice lawsuit was still pending, however, when Respondent received the Investigative Inquiry from the Board. Respondent did not seek any legal advice prior to preparing and sending his written response to the Board. Respondent admits that the statement he made in his letter to the Board, i.e. that he was not involved in the patient's care directly or indirectly, was inaccurate. Respondent admits that he reviewed the patient's records before he sent them to the Board. Respondent admits that his initial on a medical record means that he saw it and reviewed it. Respondent testified, however, that he sees 50 or more pieces of paper a day and does not read every word on every document before initializing it. Respondent denies that his letter or his oral statements at his personal appearance were meant to mislead the Board or to deny his responsibility to supervise his physician assistant. (Testimony of Respondent)

CONCLUSIONS OF LAW

The Board is statutorily authorized to discipline physicians for knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession. Iowa Code sections 147.55(3), 148.6(2)(a), and 272C.10(3) (2009). Board rule provides that knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a physician in the practice of medicine and surgery. 653 IAC 23.1(14).

The preponderance of the evidence established that Respondent violated 147.55(3), 148.6(2)(a)(2009), 272C.10(3), and 653 IAC 23.1(14) when he responded to a Board Investigative Inquiry and wrote that he was not involved in the care of the patient,

either directly or indirectly. It is clear that Respondent was involved in the patient's care. Even if Respondent had not personally seen the patient, he was responsible for the patient's care as the physician assistant's supervisor. Respondent reviewed and signed off on at least fourteen medical records, orders, and reports relating to this patient. Three of the medical records were dated long before the patient's hospitalization in January 2009. Respondent clearly knew that he was responsible for the care provided by the physician assistant.

In addition, Respondent did provide "hands on" care to the patient. The patient was admitted to the hospital with Respondent as her attending physician. Respondent examined and treated the patient while she was in the hospital and corresponded with both her surgeon and her oncologist.

The patient records and testimony of Suzanne Ware clearly establish Respondent's involvement in the care of the patient. Respondent admits he reviewed the patient's records before responding to the Board's Investigative Inquiry. Based on these facts, Respondent had to know that his statement that he was not involved in the patient's care, either directly or indirectly, was misleading, deceptive and untrue. Moreover when he was given the opportunity to correct his untrue statement through a personal appearance, Respondent continued to be evasive about his involvement in the care of the patient.

DECISION AND ORDER

CITATION AND WARNING: Respondent is hereby **CITED** for knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession, in violation of Iowa Code sections 147.55(3), 148.6(2)(a), 272C.10(3) and 653 IAC 23.1(14), and is hereby **WARNED** that such conduct in the future may result in further disciplinary action.

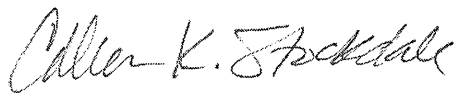
CIVIL PENALTY: Respondent shall pay a **\$3,000 civil penalty**. The civil penalty shall be paid within twenty (20) days of the date of this Order and shall be made payable to the Treasurer of Iowa and mailed to the Executive Director of the Board. The civil penalty shall be deposited in the State General Fund.

ETHICS PROGRAM: Within ninety (90) days of this Order, Respondent shall successfully complete the Professional/Problem Based Ethics (PROBE) program sponsored by the Center for Personalized Education for Physicians (CPEP), 7351 Lowry Blvd., Suite 100, Denver, CO 80230, #303-577-3232. Respondent shall ensure that a

report is sent directly to the Board. Respondent is responsible for all costs associated with the program.

IT IS FURTHER ORDERED, in accordance with 653 IAC 25.33, that Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 25.33. All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

Dated this 12th day of April, 2012.



Colleen Stockdale, M.D., Secretary
Iowa Board of Medicine

cc: David L. Brown, Respondent's Attorney
Julie Bussanmas, Assistant Attorney General

Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, from and after the date of this Decision and Order.

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

MARK R. COLLISON, M.D., RESPONDENT

FILE No. 02-10-261

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on September 23, 2011, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2)(2007). Respondent was issued Iowa medical license no. 22966 on July 1, 1982. Respondent's Iowa medical license is active and will next expire on November 1, 2011.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on December 16, 2011, before the Board. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Board office at 400 SW 8th Street, Suite C, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Statement of Charges you are required by 653 IAC 24.2(5)(d) to file an Answer. In that Answer, you should state whether you will require a continuance of the date and time of the hearing.

3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

4. Prehearing Conference. A prehearing conference will be held by telephone on October 19, 2011, at 9:30 a.m., before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (ALJ). Please contact Kent M. Nebel, J.D., Legal Director, Iowa Board of Medicine, at 515-281-7088 with the telephone number at which you or your legal counsel can be reached. Board rules on prehearing conferences may be found at 653 Iowa Administrative Code 25.15.

5. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 IAC 25. At hearing, you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 653 IAC 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

6. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Theresa O'Connell Weeg, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

7. Communications. You may not contact board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the

case. You should direct any questions to Kent M. Nebel, J.D., the Board's Legal Director at 515-281-7088 or to Assistant Attorney General Theresa O'Connell Weeg at 515-281-6858.

B. LEGAL AUTHORITY AND JURISDICTION

8. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 148, and 272C.

9. Legal Authority: If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 148, and 272C and 653 IAC 25.

10. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 653 IAC 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

11. Respondent is charged pursuant to Iowa Code sections 147.55(3), 148.6(2)(a) and 272C.10(3) and 653 IAC 23.1(14) with knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession.

STATEMENT OF THE MATTERS ASSERTED

12. Respondent is an Iowa-licensed physician who practices internal medicine in Des Moines, Iowa.

13. On June 1, 2000, Respondent entered into a combined Statement of Charges, Settlement Agreement and Final Order with the Board to resolve a pending disciplinary matter. Under the terms of the combined Statement of Charges, Settlement Agreement and Final Order,

the Board charged Respondent with excessive use of alcohol and placed him on probation for a period of five years subject to counseling and Board monitoring. On May 4, 2004, the Board terminated Respondent's probation and referred him to the Iowa Physician Health Program for counseling and monitoring.

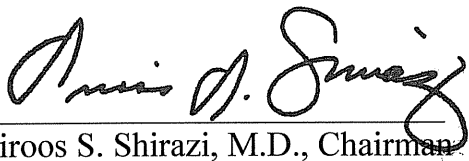
14. The Board alleges that Respondent made false or misleading statements to the Board when, in response to a Board investigation, Respondent denied he was involved in a patient's care when the medical records reveal he was.

E. SETTLEMENT

15. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 IAC 25. If you are interested in pursuing settlement of this matter, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

F. PROBABLE CAUSE FINDING

16. On September 23, 2011, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

A handwritten signature in black ink, appearing to read "Siroos S. Shirazi".

Siroos S. Shirazi, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686